

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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PROGRESSIVE CASUALTY INSURANCE
COMPANY,

Plaintiff,

v.

JACKIE K. DELANEY; et al.,

Defendants.

2:11-CV-0678-LRH-PAL

ORDER

Before the court is plaintiff Progressive Casualty Insurance Company's ("Progressive") motion for leave to file an amended complaint. Doc. #84.¹

Also before the court are defendants' motions for leave to assert counterclaims. Doc. ##85, 87.

I. Facts and Procedural History

This is a declaratory relief action brought by Progressive against defendants to determine whether a company liability insurance policy issued by Progressive to defendant Sun West Bank covers an underlying claim made by the Federal Deposit Insurance Corporation ("FDIC") against Sun West Bank's board of directors.

On April 29, 2011, Progressive filed a complaint for declaratory relief. Doc. #1. After this

¹ Refers to the court's docket entry number.

1 action was filed, the parties filed a stipulation to stay the action pending proceedings by the FDIC
2 (Doc. #47) which was approved by the court (Doc. #48). The FDIC then filed a separate action
3 against the officers and board of directors of the now defunct Sun West Bank. *See* Case No. 2:13-
4 cv-0924-JCM-VCF.

5 In August 2013, the parties lifted the stay in this action and sought to initiate discovery on
6 Progressive's claim. Thereafter, Progressive filed the present motion for leave to file an amended
7 complaint. Doc. #84.

8 **II. Discussion**

9 A party may amend its pleadings after a responsive pleading has been filed by leave of
10 court. FED. R. CIV. P. 15(a)(2). Leave of court to amend should be freely given when justice so
11 requires and when there is no undue delay, bad faith, or dilatory motive on the part of the moving
12 party. *See Wright v. Incline Village General Imp. Dist.*, 597 F.Supp.2d 1191 (D. Nev. 2009); *DCD*
13 *Programs, LTD v. Leighton*, 883 F.2d 183 (9th Cir. 1987).

14 Here, Progressive requests leave to amend its complaint to add new allegations to its claims,
15 as well as add an additional claim for reimbursement. *See* Doc. #84. A copy of the proposed
16 amended complaint is attached to the motion in accordance with LR 15-1. Doc. #84, Exhibit 1.

17 The court finds that there is no undue delay, bad faith, or dilatory motive on behalf of
18 Progressive in requesting leave to amend its complaint. Further, the court finds that the matter is
19 early in discovery and that the defendants would not be prejudiced by allowing amendment -
20 especially in light of their subsequent motions to assert counterclaims covering the same factual
21 conduct. Accordingly, Progressive shall be granted leave to amend its complaint. Similarly,
22 defendants shall be granted leave to assert counterclaims.

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1 IT IS THEREFORE ORDERED that plaintiff's motion for leave to file an amended
2 complaint (Doc. #84) is GRANTED. Plaintiff Progressive Casualty Insurance Company shall have
3 ten (10) days after entry of this order to file the amended complaint attached as Exhibit 1 to the
4 motion for leave to file an amended complaint (Doc. #84, Exhibit 1).

5 IT IS FURTHER ORDERED that defendants' motions to assert counterclaims
6 (Doc. ##85, 87) are GRANTED. The defendants shall have twenty (20) days after the filing of
7 plaintiff's amended complaint to file counterclaims.

8 IT IS SO ORDERED.

9 DATED this 21st day of March, 2014.

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12 LARRY R. HICKS
13 UNITED STATES DISTRICT JUDGE
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